

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Inquiry Concerning the Deployment of)	GN Docket No. 07-45
Advanced Telecommunications)	
Capability to All Americans in a Reasonable)	
And Timely Fashion, and Possible Steps)	
To Accelerate Such Deployment)	
Pursuant to Section 706 of the)	
Telecommunications Act of 1996)	

**COMMENTS OF PACIFIC LIGHTNET, INC. AND SILVER STAR TELECOM,
LLC**

Pacific LightNet, Inc. (Pacific LightNet) and Silver Star Telecom, LLC (Silver Star Telecom) (together, the “Joint Commenters”), through counsel, submit the following comments in response to the Commission’s Notice of Inquiry under section 706 of the Telecommunications Act of 1996—which is the Commission’s fifth inquiry into “whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.”¹

Pacific LightNet, a Hawaii-based competitive local exchange carrier serving customers on Oahu, Maui, Kauai, the Big Island, Molokai and Lanai through its own submarine cable and land-based fiber network, offers a full range of integrated telecommunications products and services, including local dial tone, high-speed Internet access, dedicated and switched long distance, collocation, special access and enhanced data services. Given the geographic remoteness of the Hawaiian

¹ See, §706(b) of the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996).

islands, Pacific LightNet’s facilities-based network enables the provision of critical, high-bandwidth solutions, such as telemedicine or distance-learning, to the more rural, neighbor islands. Further, through the bonding of copper loops, PLNI can drive cost effective, fiber-like bandwidth to underserved broadband customers. However, while capable of delivering fiber-like capacity over copper, Pacific LightNet finds that most of its business customers find the 20 Mbps service to be the most optimal—both in terms of bandwidth and affordable pricing.

Silver Star Telecom, a privately-owned competitive services provider, delivers Internet access, managed Ethernet, private line, and data services to local and regional telecom carriers, ISPs, and large enterprise customers throughout the Pacific Northwest.² Silver Star Telecom, moreover, has recently turned up a new level of advanced Ethernet services using the Hatteras Networks platform to “fatten up” copper lines with affordable 10 to 20 Mbps connections—though Silver Star Telecom, like Pacific LightNet, is capable of providing Ethernet and IP services at vastly greater Symmetrical Mbps to enterprise customers lacking access to fiber.

For the Joint Commenters, that’s a critical point. That is, because many enterprise customers still lack direct access to fiber, the existing copper-based infrastructure still plays a primary role in the delivery of advanced and affordable

² Focused on wholesale and retail customers throughout select metro markets in Washington and Oregon, Silver Star Telecom provides this Ethernet service to single-site locations within its copper footprint, and can connect multiple local area networks (LAN) across metro boundaries to create wide area network (WAN) connectivity.

telecommunications—both as the only game in town and, where fiber may be available, as a technically and economically feasible alternative to fiber.³

Thus, in analyzing and assessing the available infrastructure capable of supporting advanced services, the Commission should be wary of any ILEC proposals, in either this or any other proceeding, directed at limiting or eliminating access to last-mile copper loops—particularly where such copper facilities remain viable for use by competitive broadband service providers engaged in offering advanced services to the public.

Indeed, the Commission should take proactive steps to ensure that the ILECs' copper loop retirement policies are implemented in such a way so as to (a) permit meaningful review and comment by interested parties on notices filed by ILECs; (b) apply a consistent standard for determining when retirement is justified; and (c) whether for lease or sale, require the continuing availability of such copper facilities at reasonable terms and rates to any interested competitive broadband providers. As a coalition of competitive local exchange carriers recently requested the Commission to do just that in RM-11358, *In the Matter of Policies and Rules Governing Retirement of Copper Loops By Incumbent Local Exchange Carrier*, the Joint Commenters urge the Commission to act on this Petition and initiate the requested rulemaking proceedings.

As to the viability of fiber-to-the-premise or fiber-to-the-curb deployments as a means of furthering the availability of advanced services, the Joint Commenters

³ In many instances, offices and businesses may lie in reasonable proximity to fiber networks, but their buildings still remain unconnected to them for reasons relating to economic feasibility.

have observed another ongoing legacy issue: ILEC tariff provisions governing line extensions and deployment in new developments force developers in some jurisdictions to bear the cost burden of trenching and installing conduit for the ILEC's facilities—which conduit is then vested in the ILEC, leaving the CLEC, of course, to obtain conduit access from the ILEC at a significant cost. In a monopoly environment, these ILEC tariff provisions likely made sense; in a competitive environment, however, such provisions serve only to perpetuate an unfair advantage to the ILEC at the expense of competition in the deployment of advanced services.

Ubiquitous broadband deployment requires affordable, competitively-neutral access to last-mile broadband facilities. The Commission has the opportunity to make advanced services available to more consumers by enacting policies supporting competitive access to last-mile broadband facilities—be they copper or fiber. In the immediate term, therefore, the Joint Commenters urge the Commission (a) to determine that, given the technological improvements relating to the use of copper, granting ILECs' forbearance from the provisioning of copper loops does not serve the public interest, and (b) to initiate a rulemaking proceeding concerning ILEC copper loop retirement as requested in RM-11358.

Respectfully submitted,

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